REMARKS

Favorable reconsideration of the subject application, as amended above, is respectfully requested in view of the comments below.

Claims 25-29, 31-37 and 39-51 are pending in the present application. Claim 25 has been amended to provide the function of the claimed sequences. Claims 31, 36, 41, 42, 45 47 and 49 have similarly been amended. Support for this amendment is found throughout the specification, for example, the paragraph bridging pages 2 and 3.

Claim 27 has been amended to more particularly define the claimed sequence without altering the scope of the claim. The amendment reflects the language suggested by the Examiner.

Claim 29 has been amended to define the region of the claimed sequence that can be deleted or altered in part as an open reading frame spanning a unique SalI site. This amendment correctly identifies the location within SEQ ID NO:3 of the unique SalI site which is described in the specification. The specification discloses at page 19, line 34 to page 20, line 3 that a non-essential region of the isolated DNA molecule of the present invention was identified using a unique SalI site at nucleotides 28644-28649 of the sequence shown in Figure 1. The unique SalI site (gtcgac) is present in the sequence shown in Figure 1, as indicated in the specification and is located at nucleotides 28673-28678 of SEQ ID NO:3. Thus, it is clear that the open reading described at pages 19-20 of the specification spans nucleotides 28673-28678 of SEQ ID NO:3, as set forth in amended claim 29. Moreover, Figure 7 also shows plasmid OAV600s which has the unique SalI knock out.

Claims 33 and 41 have been amended to recite that the third polynucleotide is inserted into the first or second polynucleotide at a location that is not essential to replication. Support for this amendment is found in Figures 7 and 10. Other amendments to the claims are made merely to correct grammatical errors or are otherwise non-substantive in nature.

Claims 41, 42 and 47 have been amended to recite a method of inducing an immune response in a mammal, rather than a method of delivering a DNA molecule to a mammal. This amendment id supported by the specification at page 1 of the specification where it is taught that expression of a foreign protein following infection by a recombinant viral vector may stimulate a protective immune response in the host. Also, page 23 it is taught that the claimed viral vectors can be used for the delivery and expression of therapeutic genes, including those encoding antigens. [last para.] The purpose of obtaining antigen expression is to induce an immune response, as is clear throughout the specification. That an immune response is indeed induced has been demonstrated in the declaration filed March 18, 2003. Thus, the specification provides written description support for the claim amendment, and the declaration demonstrates enablement.

None of the amendments to the claims require further searching on the part of the examiner and are made in compliance with the Examiner's suggestions, in order to place the claims in condition for allowance.

In the final Office Action mailed April 16, 2004, the Examiner pointed out several alleged deficiencies in the subject application that Applicant has addressed herein. The defective oath was replaced with a declaration filed June 30, 2004. Accordingly, the objection to the declaration is rendered moot.

It is respectfully submitted that the amendments above render the rejections of claims 25, 26, 29, 31-37, 39-47 and 49-51 under 35 U.S.C. § 112, first paragraph, moot.

Claim 41 was rejected under 35 U.S.C. § 112, first paragraph, as allegedly containing subject matter which was not described in the specification in such a way as to enable one of skill in the art to make and/or use the invention. In a telephonic interview the Examiner stated that claims to a method of inducing an immune response, rather than delivering DNA, are enabled by the specification. At the Examiner's suggestion, Applicant has amended claims 41, 42 and 47 to recite a method of inducing an immune response. As discussed above, the specification provides support for this amendment at pages 1 and 23, and the declaration of record demonstrates that the claimed vectors induce an immune response in animals into which they are introduced. Accordingly the amendment to the claims renders this ground of rejection moot.

It is also respectfully submitted that this amendment to the claims renders the outstanding rejection of claims 42-44 and 47 under 35 U.S.C. § 112, first paragraph, moot.

The outstanding rejection of claims 27, 29 and 47 under 35 U.S.C. § 112, second paragraph, for failing to point out and distinctly claim the subject matter which applicant regards as the invention, is rendered moot by the amendments above. Amended claims 27 and 29 provide proper antecedent basis; and the typographical error of claim 47 has been corrected.

It is respectfully submitted that the present application, as amended above, is in condition for allowance, an early notification thereof being earnestly solicited. To the extent necessary, a petition for an extension under 37 C.F.R. § 1.136 is hereby made.

To the extent necessary, a petition for an extension of time under 37 C.F.R. 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account 500417 and please credit any excess fees to such deposit account.

Respectfully submitted,

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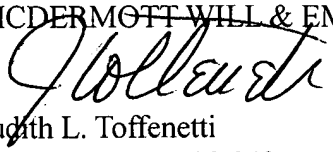

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